THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10468 of 2007

17.7.2007

Between:

Magada Sambasiva Rao, S/o.Appala Swamy

… Petitioner

AND

The District Collector, Khammam District

And others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10468 of 2007

ORDER:

Land admeasuring 1.96 Hectares in R.S.No.7/3 and Acs.0.40 gts situated at Mimmidivaram village of Bhadrachalam Mandal in Khammam District, is allegedly ancestral property of the petitioner. It is alleged that petitioner's forefathers were in possession of the land in O.S.No.65 to an extent of Acs.5.00. In appropriate proceedings under Andhra Pradesh (Andhra Area) Abolition of Estates and Conversion into Ryotwari Act, 1948, part of this land was treated as Mummidivaram Estate village. However, the application made by the petitioner's ancestors for ryotwari patta under Andhra Pradesh Schedule Areas Ryotwari Patta Regulation, 1970, was rejected. They then filed appeal before the Director of Settlements, which was dismissed on 30.1.1997. The petitioner then filed appeal before the Chief Commissioner of Appeals, who remitted the matter to Director of Settlements and the matter is pending before him as A.P.No.1 of 2001. It is alleged that even before any orders could be passed under Regulation II of 1970 in respect of subject land, respondents are proposing to construct 450 houses in the petitioner's land without following due process of law under Land Acquisition Act, 1894. In this writ petition, petitioner *inter alia* seeks a direction to respondents not to interfere with the possession of the petitioner.

The petitioner has not filed any document in respect of various petition averments, which is certainly goes against Rule 6 of Writ Proceedings Rules, 1977. Even according to the affidavit accompanying the writ petition, at least from 1980 onwards, the proceedings were initiated at the instance of the petitioner or his ancestors for grant of ryotwari patta and at present the matter is pending before the Director of Settlements under Regulation II of 1970. Nothing prevented the petitioner to file the order of the Director of Settlements dated 30.1.1997 and the copy of the order of the Chief Commissioner of Appeals dated 04.12.2000. Therefore, this Court is not inclined to accept the writ petition. However, if the petitioner is in possession of the land, this Court observes that unless and until the petitioner is evicted by following due process of law, he cannot be

denied to enjoy the land.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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July 17, 2007 (**V.V.S.RAO, J**)
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